



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

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*File*  
Scott M. Matheson, Governor  
Temple A. Reynolds, Executive Director  
Dianne R. Nielson, Ph.D., Division Director

0023

July 12, 1984

Mr. Wendel Owen  
Co-op Mining Corporation  
P O Box 300  
Huntington, Utah 84528

Dear Mr. Owen:

RE: Revised Proposed Assessment for State Violation No. N84-7-3-1,  
ACT/015/025, Folder #8, Emery County, Utah

This is to correct an error which I made in computing the history points for the above referenced NOV. History points can only be assigned for a maximum of 25 points. The proposed assessment has been corrected to reflect this error. I apologize for any inconvenience which this may have caused.

Sincerely,

*Mary Ann Wright*  
Mary Ann Wright  
Assessment Officer

MAW:re  
cc: J. Merriman, OSM Albuquerque Field Office  
95540-2

WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-op Mining/Bear CreekNOV # N84-7-3-1PERMIT # ACT/015/025VIOLATION 1 OF 1I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE July 5, 1984 EFFECTIVE ONE YEAR DATE July 6, 1983

| PREVIOUS VIOLATIONS | EFF.DATE | PTS | PREVIOUS VIOLATIONS | EFF.DATE | PTS |
|---------------------|----------|-----|---------------------|----------|-----|
| C83-5-1-4           | 8-13-83  | 20  | N83-1-2-3           | 10-1-83  | 3   |
| N83-5-2-2           | 8-14-83  | 2   | C83-5-3-1           | pending  | 0   |
| N83-5-5-3           | 8-15-83  | 3   |                     |          |     |
| N83-5-8-3           | 4-30-84  | 3   |                     |          |     |
| N83-5-7-1           | 4-29-84  | 1   |                     |          |     |

1 point for each past violation, up to one year

5 points for each past violation in a CO, up to one year

No pending notices shall be counted

TOTAL HISTORY POINTS 25  
(Maximum of 25 points)

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? EventA. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Water Pollution
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

| PROBABILITY   | RANGE | MID-POINT |
|---------------|-------|-----------|
| None          | 0     |           |
| Insignificant | 1-4   | 2         |
| Unlikely      | 5-9   | 7         |
| Likely        | 10-14 | 12        |
| Occurred      | 15-20 | 17        |

ASSIGN PROBABILITY OF OCCURRENCE POINTS 4

PROVIDE AN EXPLANATION OF POINTS Assessed as insignificant since per inspectors statement, it would take a large precipitation event to cause flow in the breached, undisturbed drainage ditch.

3. Would or did the damage or impact remain within the exploration or permit area? \_\_\_\_\_

|                         | RANGE | MID-POINT |
|-------------------------|-------|-----------|
| Within Exp/Permit Area  | 0-7*  | 4         |
| Outside Exp/Permit Area | 8-25* | 16        |

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS Damage would be offsite. Assessed down from the mid-point since, per inspectors statement, damage potential is slight.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? \_\_\_\_\_

|                     | RANGE | MID-POINT |
|---------------------|-------|-----------|
| Potential hindrance | 1-12  | 7         |
| Actual hindrance    | 13-25 | 19        |

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS \_\_\_\_\_

TOTAL SERIOUSNESS POINTS (A or B) 12

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;  
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;  
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

|                         |       | MID-POINT |
|-------------------------|-------|-----------|
| No Negligence           | 0     |           |
| Negligence              | 1-15  | 8         |
| Greater Degree of Fault | 16-30 | 23        |

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 6

PROVIDE AN EXPLANATION OF POINTS Assessed down from mid-point since inspector statement indicates operator had made note of a need for pending maintenance of the ditches and berm.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT

## Easy Abatement Situation

Immediate Compliance -11 to -20\*  
 (Immediately following the issuance of the NOV)  
 Rapid Compliance -1 to -10\*  
 (Permittee used diligence to abate the violation)  
 Normal Compliance 0  
 (Operator complied within the abatement period required)

\*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

## Difficult Abatement Situation

Rapid Compliance -11 to -20\*  
 (Permittee used diligence to abate the violation)  
 Normal Compliance -1 to -10\*  
 (Operator complied within the abatement period required)  
 Extended Compliance 0  
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS 11

PROVIDE AN EXPLANATION OF POINTS Operator immediately fixed the breached berm. However, all diversion ditches and berms were to be maintained by April 18, 1984. The NOV was terminated April 25, 1984

V. ASSESSMENT SUMMARY FOR ACT/015/025, N84-7-3-1

|                              |            |
|------------------------------|------------|
| I. TOTAL HISTORY POINTS      | <u>25</u>  |
| II. TOTAL SERIOUSNESS POINTS | <u>12</u>  |
| III. TOTAL NEGLIGENCE POINTS | <u>4</u>   |
| IV. TOTAL GOOD FAITH POINTS  | <u>-11</u> |

TOTAL ASSESSED POINTS 30

TOTAL ASSESSED FINE \$ 400.

ASSESSMENT DATE July 5, 1984 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT                      FINAL ASSESSMENT

\*\*\* Corrected Assessment July 7, 1984